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From Civil to Administrative Justice: the Evolution and Concept of the Administrative Claim in the Republic of Armenia

Key words: *Administrative Claim, Substantive and Procedural Nature, Judicial Protection of Public Rights, Administrative Justice, Public-Law Relations*

Abstract: *The article seeks to uncover the legal nature and doctrinal essence of the administrative claim as a specific procedural form of exercising the right to judicial protection within administrative justice in the Republic of Armenia. It explores the evolution of the administrative claim as an independent institution in the Armenian legal system, analyzing its substantive and procedural dimensions within the framework of administrative justice and in light of European doctrinal approaches.*

The study argues that defining the administrative claim as both a substantive legal demand and a procedural request to the court is essential for ensuring effective judicial protection of subjective public rights and legitimate interests. Within this context, particular attention is paid to the ex officio principle, which underlies the court's duty to ascertain the factual circumstances of the case, ensuring procedural equality between the parties in public-law relations.

Through doctrinal and comparative legal analysis, the article demonstrates that the administrative claim functions as a dual mechanism – both a means of restoring violated rights and a procedural instrument initiating administrative adjudication. The findings suggest that the institutionalization of the administrative claim in Armenia has elevated judicial control over administrative acts to the level of full-fledged adjudication, aligning national administrative procedure with the principles of the European Convention on Human Rights, in particular the right to a fair trial under Article 6.

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Introduction

The development of administrative justice in Armenia, as one of the youngest branches of the post-Soviet legal system, has revealed a number of theoretical and practical issues concerning the nature and structure of the administrative claim. While the institution of the claim is well established in civil procedure, its doctrinal comprehension within administrative law remains incomplete. The novelty of this research lies in offering a systematic theoretical model of the administrative claim that integrates both substantive and procedural dimensions, distinguishing it from civil litigation and grounding it in the principles of public-law relations and constitutional guarantees of judicial protection.

The study aims to (1) determine the legal essence and structure of the administrative claim; (2) classify its types within the system of judicial remedies; (3) identify the distinctive features that differentiate the administrative claim from the civil claim; and (4) justify its role as a procedural instrument ensuring effective protection of subjective public rights.

The research proceeds from the hypothesis that the administrative claim embodies a dual legal nature: it combines a substantive legal demand arising from public-law relations and a procedural request directed to the court for judicial protection. The central thesis argues that only the synthesis of these two aspects ensures the completeness of the right to claim and the effectiveness of administrative justice. Another key proposition is that administrative claims, by their public-law character, contribute to balancing the relationship between citizens and the state, thus reinforcing the rule of law.

The study employs a combination of comparative, analytical, historical-legal, and systemic approaches. The comparative method is used to analyze the development of the concept of claim in different legal systems (Roman law, Soviet doctrine, European administrative justice). The historical-legal method reveals the evolution of the claim's concept in Armenian law. The analytical and systematic methods are applied to identify the internal structure of the administrative claim and its interaction with procedural principles such as ex officio inquiry and the principle of formal equality of parties.

In this context, the author proceeds from the position that the administrative claim cannot be adequately explained either within the framework of purely civil procedural theory or through the concept of limited judicial control over administrative acts. The article substantiates that the administrative claim constitutes an autonomous public-law instrument whose nature is determined by the vertical structure of public legal relations and the necessity of compensating procedural inequality through the court's active role.

This position underlies the subsequent analysis of the substantive and procedural dimensions of the administrative claim within the Armenian legal system.

Conceptual Basis of the Claim in Administrative Proceedings

Administrative procedure, as a distinct branch of procedural law, is perhaps one of the youngest branches within the legal systems of the post-Soviet states.

The development of the conceptual foundations of the theory of claims within administrative legal relations is impossible without a comprehensive analysis of the claim as a legal institution in its entirety. In this respect, it appears appropriate to formulate a definition of the notion of a claim, which first of all requires determining its legal nature – that is, its essence.

The claim, as an independent legal institution, has been characterized in different ways at different times. In the Republic of Armenia, the institution of the administrative claim began to develop with the introduction of administrative justice, the objective of which was to distinguish administrative proceedings from civil proceedings by entrusting specialized courts with the examination of disputes arising between natural and/or legal persons, on the one hand, and entities vested with public-authority powers, on the other. The Committee of Ministers of the Council of Europe, emphasizing the importance of effective judicial control over administrative acts as an essential element of human rights protection, has established that member states of the Council of Europe must ensure that their systems of judicial organization and procedure comply with the requirements of the European Convention on Human Rights, so as to guarantee the effectiveness of such control over administrative acts[1].

One of the effective means of ensuring such control is the right to judicial protection, the starting point of which is the filing of a claim to the court. In administrative proceedings, the particular characteristics of the claim predetermine not only the entire course of the proceedings and the distribution of the burden of proof, but also the outcome of the case and the type of judicial act rendered by the court.

It is noteworthy that the disclosure of the essence of the administrative claim is closely connected with the exercise of the right to a court guaranteed by the European Convention on Human Rights and the Constitution of the RA,

[1] The Constitutional Court of the RA, case N. ՍԴՈ–780, February 25, 2008.

whereas the current regulatory framework often leads to unwarranted interferences with that right.

The study of the institution of the administrative claim has high theoretical and practical significance, being aimed at the improvement of the legal system and the guarantee of mechanisms for the effective protection of the parties' procedural rights.

Doctrinal Evolution of the Claim: From Roman Law to Modern Theory

Modern legal systems – both Anglo-Saxon and continental – have borrowed many of the fundamental principles of Roman civil procedure, including the classification of claims by type and the methods of securing them. However, the meaning of the term "claim" has undergone substantial transformation. It should be noted that the legislature often uses the notion of a claim without defining its content, which in turn leads to its identification with the entire judicial process through which a person seeks protection (*for instance, the Supreme Court of England defines a claim as the proceedings instituted by a court order*[2]).

In German legislation, the term "claim" refers to the claimant's application or procedural document that initiates proceedings for the purpose of establishing the facts and resolving the dispute[3].

Russian doctrinal sources likewise do not provide a unified approach to the understanding of this phenomenon. Since the second half of the nineteenth century, one of the most intense scholarly debates among Russian proceduralists has concerned what should be understood under the term "claim," what constitutes its object and its grounds, and how to identify its characteristic features. According to V.M. Gordonov, a claim is a "means for the realization of a civil right," emphasizing that the claim protects the right "irrespective of whether that right is contested by the other party," since "the claim is not merely a means of protecting a disputed right, but a means of protecting the right as such"[4]. Later, V.M. Gordonov modified his approach and defined

2 В.К. Пучинский, *Гражданский процесс США*, Moscow 1979, p. 138.

3 Я.Г. Елисеев, *Гражданский процесс ФРГ: учебное пособие*, Moscow 1989, p. 66.

4 Устав гражданского судопроизводства с позднейшими узаконениями, законодательными мотивами и разъяснениями по решениям Гражданского кассационного департамента, Общего собрания и Соединенного присутствия I и Кассационного департаментов Правительствующего Сената / сост. В. Гордон. СПб. 1903. P. 4–5 (The Charter of Civil Procedure with Later Legislation, Legislative Reasons, and Explanations on the Decisions of the Civil Cassation Department, the General Assembly, and the

the claim as "a person's request to the State, in the person of the court, for the adoption of a judicial act".

A similar but broader definition was offered by E.A. Nefedev, who described the claim as "*a complaint submitted to the court, in which the claimant sets out the factual and legal grounds of his right and, based thereon, formulates a demand against the respondent in the form of a request addressed to the court." A.H. Golmstén regarded the claim as "an application by a person to the court with a request for the recognition or non-recognition of a civil right*"[5].

As early as 1928, A.Kh. Goikhbar defined the claim as a demand whose satisfaction or recognition the claimant seeks to obtain through recourse to the court[6].

Based on the analysis of these doctrinal approaches, the author concludes that the evolution of the claim has moved from a purely private-law instrument in Roman tradition to a complex public-law mechanism. The distinction between the material and procedural aspects is critical for the Armenian context, where the administrative claim must function not just as a procedural trigger, but as a substantive demand against public authority.

In contemporary procedural doctrine, the term "claim" is used in several senses: *(1) as an independent institution of procedural law; (2) as a means of protecting subjective rights and legally protected interests recognized by law; (3) as a procedural act – the filing of a claim with the court – as a legal fact giving rise to a protective legal relationship; and (4) as the claimant's material-law demand against the respondent*[7].

Soviet and Post-Soviet Perspectives on the Administrative Claim

For a long time, the prevailing view in the literature was that the claim is a phenomenon inherent only in civil-law relations[8]. Many proceduralists argued that a claim could arise solely within private-law relations, where the parties are entirely equal before the law, whereas the nature of administrative legal relations, based on authority and subordination, excluded the very possibility of a claim within such proceedings.

United Presence of the First and Cassation Departments of the Governing Senate / compiled by V. Gordon. St. Petersburg, 1903, p. 4–5).

5 Е.Л. Нефедьев, *Учение об иске. Вып. 1*, Kazan 1891, p. 1.

6 А.Г. Гойхбар, *Курс гражданского процесса*, Moscov–Leningrad 1928, p. 133.

7 О.В. Исаенкова, А.А. Демичев, Т.В. Соловьева, Н.Н. Ткачева, *Иск в гражданском судопроизводстве*, Moscow 2009, p. 2–3.

8 Г.Л. Осокина, *Иск: теория и практика*, Moscow 2000, p. 192.

Thus, during the Soviet period, the notion of an administrative claim was subjected to severe criticism and was categorically rejected. S. Abramov asserted that, under Soviet legislation, attempts to justify the existence of administrative claims could only be harmful[9].

One such harmful consequence, he maintained, would be the recognition of the need for judicial protection of the Soviet citizen's public subjective rights – a category that the Soviet system did not acknowledge, since it did not permit a division of rights into public and private. An administrative claim, aimed at the protection of rights arising within the sphere of interaction with public authority – that is, of public subjective rights – was, according to E. Nosov, organically alien to the Soviet legal order, official doctrine of which denied the existence of subjective public rights as such[10].

According to Soviet civil procedural law, *"a claim is a demand submitted by the claimant to a court of first instance for the protection of a civil right or lawful interest that is contested by the respondent, by one of the methods of protection established by law, on the basis of factual circumstances with which the claimant associates his right to bring an action against the respondent"*[11]. This definition clearly reveals two kinds of demand: the demand addressed to the court, and the claimant's material-law demand addressed to the respondent.

Since Soviet doctrine viewed the 'claim' strictly as a tool for disputes between equal parties (private law), it was deemed conceptually impossible to apply it to public law, where the state and the citizen were in a vertical relationship of authority and subordination. This theoretical barrier led to the abandonment of claim-based proceedings in cases arising from administrative relations, in favor of a mere complaint system concerning the legality of administrative acts.

On the other hand, there were also numerous proceduralists who maintained that the administrative claim, as a type of claim, has the right to exist. Thus, the well-known Russian proceduralist E.A. Nefedev, working within the field of civil procedural law, considered it erroneous to define the claim exclusively as a concept of civil legal relations. Viewing the judicial claim as an institution common to every branch of procedural law, he proposed transferring the concept of the judicial claim from the science of civil law to the science of procedural law[12].

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9 С.Н. Абрамов, *К разработке проектов кодексов: в советском праве не может быть административного иска*, «Социалистическая законность» 1947, № 3, p. 7–8.

10 Е.И. Носов, *К вопросу о теории советской административной юстиции*, «Советское право» 1925, № 4, p. 16.

11 М.А. Гурвич, *Учение об иске (Состав, виды). Учеб. пособие*, Moscow 1981, p. 10.

12 Е.Л. Нефедьев, *Учение об иске. Вып. 1*, Kazan 1891, p. 1.

The codification of Administrative Procedure in Europe

To fully understand the institutionalization of the administrative claim in Armenia, it is necessary to situate it within the broader international trend of codifying administrative procedure. The Armenian experience mirrors a global shift where statutory regulation was introduced to ensure procedural fairness. The study shows, that in many European countries administrative procedure was not originally codified (unlike private law) and only later general laws on procedure emerged.

In 1925, Austria adopted a general law on administrative procedure and was soon followed by some neighboring countries. In the second half of the century, many other legal systems adopted some kind of code of administrative procedure, especially after 1989[13], and these legislative provisions are of great practical importance and raise interesting conceptual issues[14].

After 1989 there was a strong wave of adoption of APAs in Central/Eastern Europe, showing the geographical expansion of the phenomenon. The APAs were adopted mainly for procedural fairness, transparency, citizen participation, and administrative efficiency[15].

Administrative Justice in Armenia: Institutional and Doctrinal Formation

One of the primary tasks of the science of administrative law is the construction of the legal framework of the administrative claim in a manner consistent with legal realities, the study of its particular features as a variety of the general concept of a claim, the identification of its types, and the substantiation of its independent procedural form within administrative proceedings.

In domestic practice, the institution of administrative claims developed alongside the introduction of administrative adjudication. Thus, in the Republic of Armenia, the administrative claim was introduced as a means of judicial protection of rights with the adoption of the Administrative Procedure Code of the Republic of Armenia. Prior to that, cases arising from administrative

[13] G.A. Bermann, *Foreword*, [in:] J.-B. Auby (ed.), *Codification of Administrative Procedure*, Bruxelles 2014, p. 45.

[14] F. Bignami, *From Expert Administration to Accountability Network: A New Paradigm for Comparative Administrative Law*, «The American Journal of Comparative Law» 2011, vol. 59(4), p. 57.

[15] G. Della Cananea, L. Parona, *Administrative Procedure Acts in Europe: An Emerging "Common Core"*, «The American Journal of Comparative Law» 2024, vol. 72(2), p. 346.

legal relations had been examined within the framework of the special claim procedure of civil proceedings. This approach has, at various stages of historical development, been a subject of academic debate, and many procedural scholars have considered the definition of the administrative claim as an independent form of judicial protection to be unfounded.

For approximately a decade in the Republic of Armenia, the function of judicial control over administrative bodies was carried out by the courts of general jurisdiction, which, under the framework of civil procedure and through a special claim procedure, reviewed the decisions of state and local self-government bodies and their officials concerning the imposition of administrative penalties, among other matters[16]. It took only a decade for this regime of judicial control to demonstrate its incapacity to regulate the sphere in question. It therefore became necessary to establish an institutional body entrusted exclusively with the supervision of administrative acts and actions (or inaction) of administrative authorities. In the Republic of Armenia, this mission was assumed by the Administrative Court of the Republic of Armenia with the introduction of administrative procedural legislation.

The foregoing historical facts serve to confirm that administrative adjudication in the Republic of Armenia is a young and still-developing branch of procedural law. The study of the institutions that constitute its structural components and predetermine the course of proceedings before the administrative court is of foundational importance for its further development. One such institution is the institution of the claim.

Substantive and Procedural Dualism of the Claim

The necessity of the administrative claim is explained in theory by the distinctive features inherent in administrative legal relations, the study of which leads to the identification of the characteristics of the administrative claim. Before turning to those characteristics, however, it is necessary to discuss the two theoretical approaches defining the essence of the claim, the examination of which will allow a clearer definition of the notion and features of the administrative claim.

Contemporary procedural doctrine primarily discusses the essence of the claim through two possible definitions: the material-law and the procedural-law concepts. Proponents of the material-law concept define the claim as

[16] Կոչուբաև Ա., «ՀՀ վարչական դատավարություն. ինստիտուտից՝ իրավունքի ճյուղ», http://www.old.ysu.am/files/02A_Kochubaev.pdf (A. Kochubaev, *Administrative Procedure of the Republic of Armenia: From an Institute to a Branch of Law*).

a material-law demand subject to judicial consideration[17]. The essence of this concept lies in the idea that every subjective right possesses an inherent claim as a guarantee of its realisation. The demand is not something independent, existing outside the right; rather, it is intrinsic to the right itself, as an inseparable element or attribute of the right.

Thus, a group of procedural scientists have defined the claim as a demand submitted to a competent body by one person against another, arising from a disputed material-law relationship and based on legal facts. A.A. Dobrovolsky defined the claim as a concrete, disputed, material-law demand arising as a result of a violation or contestation of a right[18], emphasizing that only when the claim is presented in a certain procedural form may it properly be called a claim. Consequently, the claim cannot be fully equated with the material-law demand in its substantive sense. Yet, in Dobrovolsky's view, the decisive element of the claim lies in *"what the court's decision concerns, what issue is resolved by the judicial act."* The court either satisfies the claim or dismisses it, depending on the degree to which the claimant's demand against the respondent is substantiated. However, this research argues that applying Dobrovolsky's purely civil-law definition to the Armenian administrative context is insufficient. In administrative justice, the substantiation of the claim is not merely about private dispute resolution, but about restoring the objective legality of public administration.

N.M. Kostrova and B.N. Lapin, in defining the concept of a claim, particularly emphasise the regulatory influence of substantive law upon the institution of the claim[19], as well as the fact that the procedural aspect of claims, complaints and applications is essentially the same; it is the material-law demand that differentiates one type of proceeding from another[20].

In contrast to the material-law concept, the procedural-law (or judicial-law) concept of the claim emerged during the pre-revolutionary period of the development of civil procedural law and remained dominant until the 1950s–1960s. Its adherents define the claim as an application to a court of first instance requesting protection of a disputed civil subjective right or a legally protected interest. Supporters of this procedural theory propose abstracting from the material-law component of the claim.

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17 А.А. Добровольский, С.А. Иванова, *Основные проблемы исковой формы защиты права*, Moscow 1979, p. 17–18.

18 Ibidem, p. 7, 10.

19 Б.Н. Лапин, *Гражданско-процессуальный аспект применения права*, «Правоведение» 1980, № 2, p. 60–64.

20 Н.М. Кострова, *Право на обращение в суд за судебной защитой в советском гражданском процессе: автореф. дис канд. юрид. наук*, Saratov 1970, p. 5.

Thus, according to M.V. Semyonova, the claimant's request to the court gives rise to judicial activity regardless of whether the claimant's demands against the respondent are well-founded; and even if it is later determined that they are groundless, the process itself nevertheless arises on the basis of a lawful and real claim. Even if the claimant withdraws the claim, the procedural form of the claim still fulfils its purpose, despite the fact that the claimant may have no valid legal demand against the respondent[21].

Representatives of the procedural-law concept define the claim as a special means of judicial protection, the principal form through which procedural activity aimed at resolving disputes[22] is initiated, or as an application by an interested person to a competent body for the protection of a subjective right that has been violated or is threatened with violation[23]. In this sense, the claim is understood as a procedural instrument through which a person, seeking to protect his or her subjective rights or lawful interests, brings before the court a demand against the respondent for the purpose of examining and resolving the dispute[24].

P.V. Loginov characterizes the claim as an application addressed by an interested person to the court for the consideration and resolution of a material-law dispute between the claimant and the respondent. For him, the claim represents the initiation of proceedings by the court for the purpose of protecting the claimant's rights and lawful interests[25].

Not all Procedural theorists share this view, since according to it, the claim functions only at one stage of the proceedings – namely, at the moment when the case is initiated – and all proceedings are thereby characterized as claim-based until the judicial act enters into legal force or the proceedings are terminated. Moreover, it is the court, not the claimant, that initiates the judicial proceedings. In this regard, certain proceduralists have sought to supplement the procedural definition of the claim with additional characteristics.

Thus, G. L. Osokina includes within the concept of the claim not only the demand for the protection of a violated or contested right or a legally pro-

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21 К.И. Комиссаров, В.М. Семенов (ed.), *Советский гражданский процесс: учебник*, Moscow 1988, p. 480.

22 В.П. Воложанин, *Уточнение некоторых категорий (понятий) искового производства*, «Вопросы теории и практики гражданского процесса» 1971, Вып. 1, p. 34.

23 Г.Л. Осокина, *Проблемы иска и права на иск*, Томск 1989, p. 19.

24 М.А. Викут, *Категории "материальное" и "процессуальное" в теории гражданского процессуального права*, [in:] *Понятийный аппарат науки советского гражданского права и процесса и терминология законодательных актов. Сборник научных трудов*, Tver 1991, p. 101.

25 П.В. Логинов, *Понятие иска и исковая форма защиты права*, «Советское государство и право» 1983, № 2, p. 75.

tected interest, but also the disputed legal relations from which the demand arises, and the body of legislation governing the examination and resolution of the dispute[26].

V.V. Zanatulin and Galper go even further, incorporating into the notion of the claim all of the claimant's actions provided for by procedural legislation – actions aimed not only at initiating the process but also at the subsequent protection of the claimant's subjective rights[27], – as well as the totality of all procedural acts performed by the participants in the case during the course of the proceedings[28]. In this sense, the claim is identified with the entire judicial process in a civil case.

As follows from the foregoing, the supporters of the procedural concept attach little significance to the claimant's material-law demand against the respondent, or even exclude that demand altogether from the scope of the concept.

From the perspective of administrative justice, the exclusion of either the substantive or the procedural element of the claim leads to an incomplete understanding of its legal nature. In administrative proceedings, the claimant's material-law demand and the procedural request addressed to the court function in inseparable unity, as the effectiveness of judicial protection depends simultaneously on the existence of a public-law dispute and on the procedural mechanisms through which the court restores legal balance.

The Unified Concept of the Claim: Interrelation of Right and Remedy

There are a considerable number of procedural theorists who regard both definitions as valid approaches to disclosing the essence of the claim. In theory, this integrative position is expressed in two variants: (1) the concept of two independent legal categories, and (2) the concept of the unity of the two categories.

Adherents of the first variant argue that the claim possesses not one but two distinct essences. Within the field of substantive law, the term "claim" should be used in the sense of a material-law demand, whereas within procedural law it should be understood in its procedural meaning. In the material-

[26] Г.Л. Осокина, *Проблемы иска и права на иск*, Томск 1989, p. 19.

[27] Э.С. Гальпер, *Иск как процессуальное средство судебной защиты права в советском гражданском процессе: автореф. дис. … канд. юрид. наук*, Moscow 1955, p. 2.

[28] З.З. Зинатуллин, *Возмещение материального ущерба в уголовном процессе*, Kazan 1974, p. 52.

law sense, the demand represents the act of a person whose right has been violated or contested, directed toward the restoration and protection of that right; in procedural law, it represents the request of an interested person to the court for the adoption of a judicial decision aimed at the protection of that right.

M.A. Gurvich, insisting that the concept of a "claim" may bear different meanings – materially, it denotes a subjective right endowed with the specific attribute of being enforceable through the court, whereas procedurally, it denotes the person's procedural act aimed at obtaining judicial protection – immediately observes that such terms must nonetheless possess a unified content. In his view, to speak of a concept as having "this or that meaning" is a serious error, for "there are no concepts that possess different meanings." Thus, while acknowledging the potential dual essence of the claim, Gurvich simultaneously rejects the idea of a dualistic nature of any concept, treating the two aspects as inseparable within a single unity – thereby formulating the notion of the claim's unified essence. In his view, to speak of a concept as having "this or that meaning" is a serious error, for, as he stated, "there are no concepts that possess different meanings"[29]. Thus, Gurvich, on the one hand, raises for discussion the potential dual essences of the claim, while, on the other, rejects any dual nature of a concept, treating both elements as inseparable within a unified whole – thereby defining the claim as possessing a single, unified essence.

Proponents of the unified-essence theory define the claim as an indivisible concept comprising two aspects – material and procedural. The essence of this theory lies in the view that the claim embodies two interconnected demands: the first, a material-law demand directed against the respondent and forming the subject matter of the claim; the second, a procedural demand for judicial protection, directed to the court. Both demands exist in inseparable unity, and neither can exist independently. Recourse to a court without indicating the contested legal relations from which the claim arises is meaningless; likewise, a demand not subject to judicial examination cannot be regarded as a claim[30]. "*If the bearer of a disputed material-law demand lacks the right to contest it in a prescribed manner, he lacks the right to a claim, and conversely.*"[31] Following this logic, one may arrive at the paradoxical conclusion that a claim may exist

[29] М.А. Гурвич, *Право на иск*, Moscow–Leningrad 1949, p. 6–7, 9.

[30] А.Ф. Клейнман, *Основные вопросы учения об иске в советском гражданском процессе*, Moscow 1959, p. 22–55.

[31] А.А. Добровольский, *Курс советского гражданского процессуального права. Т. 1*, Moscow 1981, p. 475.

in any situation in which a person's right, the protection of which is provided by law, has been violated.

In this connection, K.S. Yudelson observes that the indisputable existence of a subjective right is by no means a necessary condition for the exercise of the right to bring a claim and to apply to the court. A.A. Dobrovolsky, for his part, held that the course of proceedings and the emergence of procedural legal relations begin from the moment the case is accepted for consideration[32]. Consequently, to speak of a procedural legal concept of the claim existing outside the judicial process (that is, prior to the initiation of proceedings) is, at the very least, illogical.

Legal theory also recognizes the correlation between the material and procedural aspects of the claim as that between form and substance.

The distinctive feature of the dual-aspect concept of the claim lies in the understanding of the claim as a complex phenomenon whose essence is determined, first, by the nature of the material-law demand addressed to the respondent and, second, by the method of protection accorded to it within the course of judicial proceedings.

At present, the purely material-law concept of the claim is recognized by the majority of jurists as incomplete. The principal internal contradiction of this theory lies in the fact that it directly links the procedural act of filing a statement of claim with the sphere of substantive law. To bring a claim before the court, one must possess a subjective right, whereas the purpose of the court's activity is to determine whether that subjective right indeed belongs to the claimant. In addition to other shortcomings and inconsistencies, the material-law concept fails to encompass declaratory claims – particularly negative declaratory claims – although a significant portion of administrative claims are, by their nature, purely declaratory.

Defining the claim as a means of legal protection exercised by a person who has applied to the court for protection against a presumed violator, on the basis of the disputed legal relations indicated by the claimant[33], also presents several gaps and inaccuracies. In particular, the claim, as a means of legal protection, is always realized through a specific procedural act performed by the claimant – namely, a demand addressed to the court for the protection of his or another person's right or lawful interest. In other words, by using the claim as a means of protection, the interested party invariably submits a claim to the court. It is important to note that the demand is addressed to the court

[32] А.А. Добровольский, А.Ф. Клейнман (ed.), *Советский гражданский процесс: учебник для студентов юридических институтов и факультетов*, Moscow 1970, p. 107.

[33] О.В. Исаенкова, А.А. Демичев, Т.В. Соловьева, Н.Н. Ткачева, *Иск в гражданском судопроизводстве*, Moscow 2009, p. 45.

and not to the respondent, since only the court is empowered to compel the respondent to adopt the course of conduct sought by the claimant, as the authorised party in the disputed legal relationship.

At the same time, legal literature widely defines the claim as an application submitted by an interested person to a competent authority for the purpose of protection. As G.L. Osokina rightly notes, such a definition confines the scope of the claim to the stage of case initiation and equates the claim with a procedural act commencing at the moment of its submission. A claim, as a demand for protection addressed to the court, may, however, exist until the enforcement of the court's judgment – until the final resolution of the dispute through the application of specific measures of state coercion against the violator.

The domestic approach to the legal structure of the claim incorporates two inseparable components: the material-law and the procedural. The material-law component is understood as the material-law demand addressed to the respondent, arising from substantive legal relations and based on specific legal facts; the procedural component is the request addressed to the court for the resolution of the dispute in accordance with the law. The absence of either element, according to domestic legal scholarship, constitutes an obstacle to the rendering of a judicial act[34].

Taking into account the above considerations, a claim may be defined as a demand addressed to the court for the protection of public subjective rights and lawful interests, arising from the disputed material-law relations indicated by the claimant, directed against the presumed violator, and encompassing a request to the court for the resolution of those disputed legal relations.

A review of the legal literature allows us to conclude that the necessity of defining the administrative claim, within the system of classification of claims, as an independent form of rights protection, is conditioned by the nature of the legal relations in which the dispute between the parties arises – relations originating in the sphere of public law. This feature makes it possible to distinguish the characteristics of the administrative claim, differentiate it from the civil claim, and thereby substantiate the need for its separate recognition within the system of classification of claims.

Which of these approaches most comprehensively explains the legal nature of the administrative claim? The analysis conducted above demonstrates that the

[34] «Հայաստանի Հանրապետության վարչական դատավարություն. Գիրք առաջին» /Տ. Խաչիկյան, Հ. Բեդևյան, Ա. Ղարսլյան, Տ. Մարկոսյան, Ե. Խունդկարյան, Վ. Հովհաննիսյան:- Եր.: «Հայրապետ» հրատ:, 2022, p. 248–256 (T. Khachikyan, H. Bedevyan, A. Gharslyan, T. Markosyan, E. Khundkaryan, V. Hovhannisyan, *Administrative Procedure of the Republic of Armenia. Book One*, Yerevan 2022, p. 248–256).

unified concept of the claim most accurately reflects the realities of administrative justice in the Republic of Armenia, where judicial protection of public subjective rights requires both the identification of a substantive public-law infringement and the activation of procedural guarantees through judicial intervention.

The answer to this question enables us to formulate a clear definition of the concept of the claim, determine its content, and ultimately establish the essence of the administrative claim.

In our analysis, we have considered the classification of claims according to the purpose pursued by the claimant or the means of protection invoked. Nonetheless, this is not the sole basis for classification.

From both a theoretical and practical perspective, greater value lies in the classification proposed by G.L. Osokina, who employs the nature of the infringement of the parties' subjective rights and lawful interests in material legal relations as the criterion of classification[35]. Accordingly, G.L. Osokina classifies claims as follows:

(a) Civil claim – a demand for the protection of the subjective rights and lawful interests of the parties in homogeneous (private-law) relations, such as civil, family, labour and similar relations;
(b) Administrative claim – a demand for the protection of the subjective rights and lawful interests of the parties in homogeneous (public-law) relations, such as state, administrative, fiscal and similar relations;
(c) Criminal claim – a demand for the protection of the subjective rights and lawful interests of individuals, organisations, and the state against criminal infringements.

The practical significance of this classification lies in its application to the justification of the administrative claim as an independent category within the system of classification of claims and in the identification of its defining features, since the administrative claim is inseparably connected with the nature of the legal relations whose protection it seeks to ensure. Thus, the protection of a right or lawful interest against its violation is precisely what enables us to regard civil, criminal (accusatory), and administrative claims as phenomena belonging to a single procedural plane – as varieties of a general concept of claim that functions as a universal legal instrument for setting the machinery of justice in motion for the protection of violated or contested rights or lawful interests.

Civil, criminal, and administrative claims, as varieties of the general concept of claim, differ from one another according to the nature of the legal infringement – or, more precisely, the object of protection. The varying degree of social danger presented by the act (the offence), and the nature and impor-

[35] Г.Л. Осокина, *Иск: теория и практика*, Moscow 2000, p. 64.

tance of the violated or contested right or lawful interest, leave a distinctive imprint on the process by which the court examines and resolves the claim as a demand for protection, determining the features of the methods of protection that, in turn, predetermine the relative differences among civil, criminal, and administrative proceedings.

According to V.I. Remnev, administrative offences arising from administrative legal relations and infringing the subjective rights of citizens within the sphere of public legal relations should be examined according to the rules of claim-based procedure[36], in which both the citizen and the representative of the administrative authority appear before the court as parties possessing equal opportunities to substantiate their arguments.

The existence of opposing interests between the parties presupposes the existence of a dispute. However, for the initiation of judicial proceedings, the existence of a dispute alone is insufficient: specific actions deriving from the principle of dispositiveness are also necessary to constitute the grounds for the initiation of proceedings. Accordingly, theoretical literature interprets even the filing of a claim with the court as an expression of the principle of dispositiveness, aimed at obtaining judicial protection.

As we have already emphasized, the distinction of administrative claims within the system of classification of claims is particularly significant for two reasons: (1) the nature of the legal relations whose protection the claim seeks to ensure; and (2) the necessity of establishing a special set of procedural instruments for the protection of those relations. Legal doctrine identifies the following principal features of a claim: (1) the existence of a dispute concerning a right or lawful interest; (2) the presence of parties with opposing legal interests; (3) the existence of a material-law demand by the claimant against the respondent; and (4) the submission of a demand to a competent authority for the examination and resolution of the case[37].

The Principle of Ex Officio and Procedural Equality

For many years, administrative disputes were examined under civil procedure. However, the necessity of distinguishing between civil and administrative

[36] В.И. Ремнев, *Право жалобы и административная юстиция в СССР*, «Советское государство и право» 1986, № 6, p. 32.

[37] «Հայաստանի Հանրապետության քաղաքացիական դատավարության դասագիրք», Հայրապետ հրատարակչություն, 2022թ., խմբ.՝ Հովհաննիսյան Վ.Վ., Մեղրյան Ս.Գ., p. 25–26 (V.V. Hovhannisyan, S.G. Meghryan, *Textbook of Civil Procedure of the Republic of Armenia*, Yerevan 2022, p. 25–26).

adjudication is determined by the specific nature of the legal relations from which the dispute concerning the right or lawful interest arises. Proceedings arising from civil, family, labor and similar legal relations represent the judicial procedure for examining and resolving disputes concerning the rights and lawful interests of subjects of horizontal (private-law) relations.

Proceedings arising from administrative legal relations constitute the judicial procedure for the examination and resolution of disputes concerning the rights and lawful interests of subjects of vertical (public-law) relations. It is important to note that, in hearing cases arising from administrative and legal relations, the court is guided by the norms of constitutional, administrative, financial and other related branches of public law, which regulate hierarchical relations of authority and subordination. Therefore, the legislature's separation of this type of proceeding is not an end in itself, but is determined by the necessity of establishing means of judicial protection capable, in their totality, of ensuring adequate protection of individual rights – something that civil procedure could not provide, given the hierarchical nature of the parties' relationship. It is for this reason that administrative proceedings are structured upon the principle of establishing the facts ex officio, which enables the court to ensure formal equality between the parties within the framework of procedural proceedings, granting them equal opportunities and, through the court's active role, overcoming the factual inequality between them.

In contemporary legal systems, the ex officio principle in administrative procedure is regarded as a mechanism ensuring a fair trial[38]. However, in our view, this principle first appeared as a philosophical and juridical concept during the stage of identifying the philosophical foundations of law – within the liberal-legal theory of law – and thus constitutes the modern manifestation of that concept.

As V. Nersesyants observed, formal equality is understood as a guarantee of equal legal capacity, attainable only when the state provides to socially vulnerable groups such assistance as is necessary for them to acquire a legal status comparable to that of other social groups. Opposing the widespread notion that formal equality merely entails the provision of equal opportunities to all, Nersesyants maintained that the scope of opportunities granted to each person cannot be artificially identical; rather, it must be determined by the need to secure for that individual a legal status ensuring the greatest possible

[38] Recommendation CM/Rec (2007)7 of the Committee of Ministers to member states on good administration (adopted by the Committee of Ministers on 20 June 2007 at the 999bis meeting of the Ministers' Deputies), https://rm.coe.int/cmrec-2007-7-of-the-cm-to-ms-on-good-administration/16809f007c.

degree of real equality[39]. In other words, the granting of equal opportunities may not ensure actual legal equality but may, on the contrary, deepen existing factual inequality. The foregoing interpretation of formal equality possesses clear theoretical significance, for only under such conditions of equality can the individual truly be endowed with freedom[40]. Thus, in order to establish equality between phenomena and objects, it becomes necessary to abstract from their actual inequality. As a result, when equating distinct objects on a fundamental level, we abstract from all individual, specific, or gender-based differences and perform a formal equalization, since factual equality between them does not exist – the objects, though perhaps minimally, still differ. Such formal equalization is carried out on the basis of justice, as a qualitative attribute of law, and freedom, as a guarantee of the exercise of rights. Accordingly, the ultimate aim of this equalization is not merely the abstraction from factual inequality and formal alignment, but also the provision to the state of the necessary legal instruments to ensure, in objective terms, the realization and protection of individual rights under conditions of legal equality.

In the modern world, the above model – ensuring equal conditions and opportunities for the protection of the rights and interests of the parties, that is, of the subject vested with public-authority powers on the one hand, and of natural or legal persons on the other – is established by the Administrative Procedure Code (APC) as a mandatory requirement of administrative adjudication. It enables the court, through its active role, to participate in the administration of justice and to ensure equality of conditions within an adversarial process by applying the inquisitorial (examination-based) method.

Legal doctrine traditionally distinguishes between two types of proceedings: the adversarial and the inquisitorial.

Within this framework, the ex officio principle continues to serve as a contemporary procedural mechanism for realizing the principle of formal equality within the inquisitorial type of proceedings. It does not contradict the implementation of the adversarial principle in administrative adjudication, though by its substantive imperative it limits the latter's scope of application. Consequently, it is the author's position that the ex officio principle does not contradict the adversarial nature of the proceedings; rather, it is a necessary corrective mechanism. In the Armenian context, without active judicial intervention (ex officio), the 'formal equality' of the citizen against the state would

[39] В.С. Нерсесянц, *Философия права*, Moscow 2012, p. 11–16.

[40] Դանիելյան Գ.Բ., «Վլադիկ Ներսիսյանցի իրավափիլիսոփայական ժառանգությունը և իրավունքի ժառանգության արդի հիմնախնդիրները», http://ysu.am/files/04G_Danielyan.pdf, (G.B. Danielyan, *The Legal Philosophical Heritage of Vladik Nersisyants and Contemporary Issues in the Heritage of Law*).

remain illusory. Accordingly, within administrative proceedings, the ex officio principle should be regarded not merely as a procedural technique but as a structural element of the administrative claim itself, ensuring the realisation of formal equality between the parties in conditions of factual inequality inherent in public-law relations.

The Administrative Claim as an Instrument of Judicial Protection

Therefore, notwithstanding the prevailing approach in procedural theory, the existence of the administrative claim and its examination under a separate procedural regime are fully justified, given the specific nature of the legal relations whose protection this institution is designed to secure.

It should be noted that the most important criterion for the classification of claims is the nature of the infringement of the subjective rights and lawful interests of the subjects of substantive legal relations. Accordingly, the administrative claim constitutes a demand for the protection of the subjective rights and interests of the subjects of vertical (public-law) relations.

Such classification provides the basis for identifying the characteristics of the administrative claim in light of the nature of public legal relations.

The most effective means of protecting an individual from infringements by public authority is the right to apply to the court – recognized in the Republic of Armenia, as in all legal states, as a constitutional (fundamental) right[41].

In interpreting the features of public legal relations, the Court of Cassation has noted that the field of public law encompasses the relations between the individual and the state, which acts as the bearer of public authority[42]. That is, public legal relations arise from the executive and regulatory activities of state administrative bodies in their interactions with natural and legal persons.

Reaffirming this legal position, in another judgment the Court of Cassation added that another characteristic feature of public legal relations lies in the fact that the powers conferred upon public administrative bodies are intended

41 Պետրոսյան Լ.Ռ., Գործի փաստական հանգամանքերը ի պաշտոնե պարզելու սկզբունքի իրացումը վարչական դատավարությունում ոչ պատշաճ հայցատեսակ ներկայացնելիս, հոդված, ԵՊՀ իրավագիտության ֆակուլտետի ասպիրանտների և հայցորդների նստաշրջանի նյութերի ժողովածու, 2018թ., p 287, //URL: http://publications.ysu.am/wp-content/uploads/2018/05/20Lilit_Petrosyan.pdf (L.R. Petrosyan, *Implementation of the principle of establishing the factual circumstances of the case ex officio when submitting an improper claim in administrative proceedings, article, Collection of materials of the session of postgraduate students and claimants of the Faculty of Law of Yerevan State University*, 2018, p. 287).

42 Cassation Court of the RA, case N. ԵԱՔԴ/1369/02/09, December 03, 2010.

for the fulfilment of public duties assigned to them. For this reason, the norms of public law generally determine how bodies vested with public-authority powers must exercise those powers[43]. In other words, within public legal relations, bodies endowed with public-authority powers act strictly within the limits of the competence conferred upon them by law and are obliged to perform the duties imposed upon them by law[44].

An analysis of the decisions of the Court of Cassation allows us to affirm that a legal relation is public in nature where one of the parties necessarily acts as a subject vested with public-authority powers, which, in the course of that relation, exercises its legally prescribed public powers in connection with the realization of the public interest.

According to the Court of Cassation, only the simultaneous presence of the above conditions permits one to affirm the public character of a legal relation and, consequently, to determine the jurisdiction of disputes arising therefrom. It must also be borne in mind that not all disputes arising from public legal relations fall within the jurisdiction of the administrative courts. In accordance with Article 10(2) of the Administrative Procedure Code of the Republic of Armenia, the administrative court does not have jurisdiction over cases falling within the competence of the Constitutional Court of the Republic of Armenia, criminal cases reserved to the courts of general jurisdiction, and cases relating to the execution of sentences[45].

Accordingly, the administrative claim is characterized by the following features:

- *The subject matter of the claim – a dispute arising from a public legal relation, the examination of which falls within the jurisdiction of administrative court;*
- *Exhaustion of administrative remedies in certain categories of cases;*
- *The right to file a claim arising from an administrative legal relation;*
- *The existence of admissible grounds for filing an administrative claim;*
- *Observance of statutory time limits for applying to the court.*

The Committee of Ministers of the Council of Europe defines the main principles of the judicial review of administrative acts as follows[46].

43 Cassation Court of the RA, case N. ՎԴ/12145/05/13, November 27, 2015.
44 Cassation Court of the RA, case N. ԵԱՔԴ/1369/02/09, December 03, 2010.
45 Cassation Court of the RA, case N. ՎԴ/1621/05/14, April 22, 2016.
46 Recommendation Rec (2004) 20 of the Committee of Ministers to member states on judicial review of administrative acts (Adopted by the Committee of Ministers on 15 December 2004 at the 909th meeting of the Ministers' Deputies).

1. The scope of judicial review

a. All administrative acts should be subject to judicial review. Such review may be direct or by way of exception.
b. The tribunal should be able to review any violation of the law, including lack of competence, procedural impropriety and abuse of power.

2. Access to judicial review

a. Judicial review should be available at least to natural and legal persons in respect of administrative acts that directly aect their rights or interests. Member states are encouraged to examine whether access to judicial review should not also be opened to associations or other persons and bodies empowered to protect collective or community interests.
b. Natural and legal persons may be required to exhaust remedies provided by national law before having recourse to judicial review. The length of the procedure for seeking such remedies should not be excessive.
c. Natural and legal persons should be allowed a reasonable period of time in which to commence judicial review proceedings.
d. The cost of access to judicial review should not be such as to discourage applications. Legal aid should be available to persons lacking the necessary nancial resources where the interests of justice require it.

3. An independent and impartial tribunal

a. Judicial review should be conducted by a tribunal established by law whose independence and impartiality are guaranteed in accordance with the terms of Recommendation No. R (94) 12.
b. The tribunal may be an administrative tribunal or part of the ordinary court system.

4. The right to a fair hearing

a. The time within which the tribunal takes its decision should be reasonable in the light of the complexity of each case and of the procedural steps or postponements attributable to the parties, while respecting the adversary principle.
b. There should be equality of arms between the parties to the proceedings. Each party should be given an opportunity to present his or her case without being placed at a disadvantage.

c. Unless national law provides for exceptions in important cases, the administrative authority should make available to the tribunal the documents and information relevant to the case.
d. The proceedings should be adversarial in nature. All evidence admitted by the tribunal should in principle be made available to the parties with a view to adversarial argument.
e. The tribunal should be in a position to examine all of the legal and factual issues relevant to the case presented by the parties.
f. The proceedings should be public, other than in exceptional circumstances.
g. Judgment should be pronounced in public.
h. Reasons should be given for the judgment. Tribunals should indicate with sucient clarity the grounds on which they base their decisions. Although it is not necessary for a tribunal to deal with every point raised in argument, a submission that would, if accepted, be decisive for the outcome of the case requires a specic and express response.
i. The decision of the tribunal that reviews an administrative act should, at least in important cases, be subject to appeal to a higher tribunal, unless the case is directly referred to a higher tribunal in accordance with the national legislation.

5. The eectiveness of judicial review

a. If a tribunal nds that an administrative act is unlawful, it should have the powers necessary to redress the situation so that it is in accordance with the law. In particular, it should be competent at least to quash the administrative decision and if necessary to refer the case back to the administrative authority to take a new decision that complies with the judgment. It should also be competent to require of the administrative authority, where appropriate, the performance of a duty.
b. The tribunal should also have jurisdiction to award costs of the proceedings and compensation in appropriate cases.
c. The necessary powers to ensure eective execution of the tribunal's judgment should be available in accordance with Recommendation Rec(2003)16.
d. The tribunal should be competent to grant provisional measures of protection pending the outcome of the proceedings.

Article 61 of the Constitution[47] of RA guarantees to every person the right to effective judicial protection of his or her rights and freedoms, the point of

[47] Adopted on December 6, 2015: ՀՀՊՏ 2015.12.21/Հատուկ թողարկում Հոդ. 1118 (Special edition, Art. 1118).

departure for which, in the context of administrative justice, is the individual's act of will be expressed through the submission of an administrative claim[48] to the court.

The administrative claim constitutes the procedural ground for initiating proceedings before the court; however, its essence manifests distinct features determined by the legislative instruments governing the exercise of the right to the administrative court and by the diversity of procedural-theoretical interpretations.

International experience shows that in a number of states the procedural mechanisms for submitting a claim are determined by the particular types of claims, while in others they are linked to the types of demands that may be brought before the administrative court. The disclosure of the essence of these concepts is directly connected with the clarification of their purpose.

The administrative claim, as a means of applying to the court for the protection of a violated right within the sphere of public legal relations, establishes a high level of guarantees for the protection of the rights and lawful interests of the persons involved in administrative proceedings. It provides the parties with a range of means of legal protection. As I. Zaitsev observes, such an approach represents *"for the claimant, the possibility to withdraw the claim, to modify its basis or subject matter, and, where compensation for damages is at issue, to determine the amount of the demand"*[49].

According to G.L. Osokina, *"the administrative claim is a demand aimed at protecting the established legal order and the rights and freedoms of citizens, organisations, and the state against administrative infringements within the sphere of public law".*

Unlike other types, the administrative claim is defined as a demand for the resolution of a public-law dispute[50].

In the various definitions of the administrative claim, the common point of departure is its interpretation as a procedural demand or instrument. Nonetheless, they differ in their interpretation of the subject matter and purpose of the claim. Yu.A. Popova adopts a narrower interpretation, excluding from among possible subjects persons such as organizations, and viewing the purpose of

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[48] The Administrative Procedure Code of the RA, article 65. Adopted on May 5, 2012: ՀՀՊՏ 2013.12.28/73(1013).1 Հոդ.1186.1, art. 65.

[49] А.Б. Зеленцов, *Понятие и виды административного иска*, «Вестник РУДН, сер. Юридические науки» 2005, № 1.

[50] И.В. Фадеева, Т.А. Лахтина, *Административный иск как средство защиты публичных прав и разрешения административно-правового спора*, «Вестник экономической безопасности» 2017, № 2, p. 65.

the administrative claim solely as the verification of the legality of administrative acts[51].

The current legislative framework, however, defines a much broader range of subjects and types of claims. A private individual may apply to the court not only to verify the legality of an administrative act but also to protect a violated right or personal interest, as well as to assert other forms of claim.

The administrative claim, as a procedural instrument, is thus a demand addressed by the claimant to the court for the protection of public law – both subjective and objective. From the foregoing, it directly follows that a public legal relationship does not presuppose solely the protection of an individual's objective rights; it also encompasses the judicial protection of private rights arising from public legal relations.

In procedural theory, the claim – as the initial procedural mechanism for the exercise of the dispositive right to judicial protection – receives various definitions. Thus, domestic procedural doctrine defines the claim as *"a substantive-law demand, directed by the claimant against the respondent, arising from disputed legal relations and based on facts of certain legal significance, which is submitted to the court, and upon which the court must deliver a judgment either granting or dismissing the claim"*[52].

An administrative claim, in turn, is defined as *"a legal demand brought by an individual against a body or official vested with public-authority powers concerning the violation, or the risk of violation, of his or her rights resulting from an unlawful act, action, or omission by that authority; as well as, in cases provided by law, a legal demand brought by a body or official vested with public-authority powers against a natural or legal person, or against another administrative body, which is subject to judicial examination and determination in accordance with the procedure prescribed by law"*[53].

In Roman law, a claim was characterized as a demand submitted to the court for the protection of violated rights[54]. Nevertheless, the definition of

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51 А.Б. Зеленцов, *Понятие и виды административного иска*, «Вестник РУДН, сер. Юридические науки» 2005, № 1, p. 15.

52 Հայաստանի Հանրապետության քաղաքացիական դատավարության դասագիրք, Հայրապետ հրատարակչություն, 2022թ., խմբ.՝ Հովհաննիսյան Վ.Վ., Մեղրյան Ս.Գ., p. 347 (V.V. Hovhannisyan, S.G. Meghryan, *Textbook of Civil Procedure of the Republic of Armenia*, Yerevan 2022, p. 347).

53 Հայաստանի Հանրապետության վարչական դատավարության դասագիրք, Հայրապետ հրատարակչություն, 2022թ., խմբ.՝ Հովհաննիսյան Վ.Վ., p. 148 (V.V. Hovhannisyan, *Textbook of Administrative Procedure of the Republic of Armenia*, Yerevan 2022, p. 148).

54 Ф.К. фон. Савиньи, *Система современного римского права: В 8 т., Т. III*, Moscow 2013, p. 351.

the administrative claim must be given in the context of clarifying its purpose, which is *"not only the establishment of the legality of an act but also the protection of individuals' subjective public rights"*[55].

In this context, it may be concluded that the general features of the administrative claim's definition relate not only to the exercise of procedural law but also to the exercise of that right as a consequence of a substantive-law violation. Consequently, the claim itself constitutes not merely the result of a substantive-law infringement but also a procedural mechanism for the realisation of the right to judicial protection. Only the combination of these two dimensions makes it possible to define the administrative claim as a substantive-law demand, brought against the respondent within the framework of a public legal relationship, which is expressed in the form of a request submitted to the court.

When the substantive-law element of the claim is present – that is, when, within the sphere of public legal relations, as a result of the exercise of executive-administrative powers, an individual's specific right has already been infringed – and the person, exercising the right derived from the principle of dispositiveness, decides to apply to the court with a request that the violation be formally established by a judicial act, at this stage the procedural aspect of the claim manifests itself within the scope and limits of the procedural rights exercised. These, in turn, determine the manner in which the protection of those rights is to be realised.

If this mode of protection is not guaranteed by a stable and clearly defined legislative framework, the right of claim cannot be regarded as complete. This approach appears to combine, within procedural theory, both the legally protected interest from the substantive-law perspective and the request addressed to the court for the protection of that interest from the procedural-law perspective.

Conclusion

The conducted analysis demonstrates that the administrative claim represents a complex legal phenomenon that unites both substantive and procedural dimensions of law. It arises within public-law relations where the individual and the state stand in a vertical relationship of authority and subordination. The administrative claim functions as the primary instrument

[55] А.Б. Зеленцов, *Понятие и виды административного иска*, «Вестник РУДН, сер. Юридические науки» 2005, № 1, p. 48.

through which the constitutional right to effective judicial protection is realized in this domain.

The research establishes that neither the purely substantive nor the purely procedural interpretation of the claim is sufficient to reflect its legal nature. The administrative claim embodies the dual unity of a substantive demand directed against an act, action, or inaction of an administrative authority, and a procedural request to the court for restoration of violated rights and interests. This duality ensures the practical implementation of the principle of legality and the balance between the powers of public administration and the rights of individuals.

It is concluded that the introduction of the administrative claim in the Armenian legal system has transformed judicial control over the administration from a limited supervisory mechanism into a full-fledged adjudicatory process. The effective functioning of this institution depends on a stable legislative framework, procedural clarity, and the courts' active role in establishing the factual circumstances ex officio. Thus, the administrative claim must be regarded as both a legal right and a procedural mechanism that guarantees the unity of substantive justice and procedural fairness, serving as a cornerstone for the development of modern administrative justice and the protection of subjective public rights.

The scientific value of the present study lies in substantiating the administrative claim as an independent institution of administrative justice, rather than as a derivative of civil procedural constructs. The Armenian experience demonstrates that the institutionalization of the administrative claim transforms judicial control over public administration into a mechanism of full-fledged adjudication, thereby strengthening the constitutional guarantee of effective judicial protection.

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